

MCI WORLD COM

ORIGINAL

EX PARTE OR LATE FILED

Bradley C. Stillman
Senior Policy Counsel
Strategic Advocacy

1801 Pennsylvania Avenue, NW
Washington, DC 20006
202 887 3340
Fax 202 887 3116

ORIGINAL

September 8, 1999

EX PARTE

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

SEP 08 1999

CC Docket No. 96-98

Dear Ms. Salas:

MCI WorldCom submits the attached document, "**ILEC Revenue Losses Resulting From Nondiscriminatory Access to Unbundled Enhanced Extended Link**" for inclusion in the above-referenced docket. The attached document omits a section that contains proprietary information. The document containing this information was filed today under separate cover and was filed under the protective order established specifically for this docket (DA 99-1536; rel. August 5, 1999).

In accordance with section 1.1206(b)(1) of the Commission's rules, 47 C.F.R. § 1.1206(b)(1), an original and one copy of this memorandum and attachment are being filed with your office.

Sincerely,



Bradley C. Stillman

No. of Copies rec'd 0+1
List ABCDE

**ILEC REVENUE LOSSES RESULTING FROM NONDISCRIMINATORY ACCESS
TO UNBUNDLED ENHANCED EXTENDED LINKS**

In a series of *ex parte* presentations, several Bell Operating Companies ("BOCs") have asserted that if the Commission classifies the extended link¹ as an unbundled network element ("UNE") that they must provide to requesting carriers, the Commission must impose an unprecedented use restriction on that element. Specifically, these companies maintain that the Commission must deny competitive local exchange carriers ("CLECs") the continued right to use extended links to provide only exchange access services, despite the Commission's consistent interpretation of the plain language of the Telecommunications Act of 1996 (the "1996 Act") to forbid such discrimination.

The BOCs offer various rationalizations to justify this facially discriminatory restriction on the use of an unbundled network element. This submission responds to the BOC claim that this restriction is necessary to prevent a huge loss of revenues to the ILECs.² Of course, the 1996 Act was not intended to protect the revenues or profits of incumbent local exchange carriers ("ILECs") from competition, including competition using UNEs. To the contrary, Congress anticipated that the development of competition to provide local exchange and exchange access services would reduce the ability of BOCs and other ILECs to extract monopoly profits.

In any event, BOC claims that billions of dollars of special access revenues would be at risk if they comply with their obligations to provide extended link on a nondiscriminatory basis are grossly exaggerated. This can be demonstrated in two ways. First, a "top-down" approach, estimating the maximum possible ILEC revenue loss based on total industry numbers, shows a maximum ILEC revenue loss in the first year of between \$200 million and \$600 million. Second, a "bottom-up" analysis uses proprietary MCI WorldCom-specific information to project the actual expected ILEC revenue loss from the replacement of existing access services with extended links, and to show that the likely ILEC revenue loss would be approximately \$200 million. These figures compare with total annual ILEC revenues of \$108.3 billion and total annual ILEC access revenues of approximately \$24.2 billion.

¹ Extended link also has been called enhanced extended link or EEL.

² MCI WorldCom and other CLECs respond elsewhere to BOC arguments that the use restriction is necessary to protect implicit universal service subsidies or to maintain incentives for network investment by facilities-based CLECs and competitive access providers (CAPs). Nor does MCI WorldCom address here the inconsistency between this ILEC claim and their argument that competition from facilities-based CAPs has forced the price of special access to cost.

In each of these analyses, MCI WorldCom uses two assumptions that favor the ILECs even though they are unrealistic. First, MCI WorldCom assumes that the price of special access is reduced from special access tariff rates to UNE rates on a "flash-cut" basis for all special access circuits, even though this assumption is extremely unlikely given existing special access contracts, which impose substantial penalties on carriers that fail to meet volume and term commitments, and significant unresolved operational issues concerning the provision of extended links on an unbundled basis. Second, MCI WorldCom uses the same static analysis employed by the ILECs. Of course, a significant reduction in the price of facilities used for access will increase the demand for these facilities, and the BOC analysis does not consider the dynamic effects of this price cut that would increase the revenues of BOCs and other ILECs.³

1. Analysis Based on Total Industry Numbers

According to the Commission's Preliminary Statistics of Common Carriers, total interstate LEC special access revenues were \$5.7 billion in 1998. The Commission's statistics do not separate intrastate special access revenues from total intrastate access revenues, which were \$8.3 billion in 1998. However, under the Commission's rules, a special access circuit is considered interstate if at least 10% of its usage is interstate. Accordingly, intrastate special access revenues constitute only a small portion of total special access revenues. For purposes of this analysis, MCI WorldCom assumes that 90% of ILEC special access revenues are interstate. This assumption yields industry-wide ILEC annual interstate and intrastate special access revenues of approximately \$6.3 billion.

In order to determine what portion of this \$6.3 billion would be at risk for the ILECs if IXC's substitute extended links for special access circuits, one must exclude special access revenues that would not be affected by the unrestricted use of extended links. These include: (1) revenue from circuits sold to non-carrier customers (*e.g.*, ISPs); (2) revenue from entrance facilities and multiplexing required by IXCs for switched access services; (3) revenue from circuits for which the IXC does not require transmission beyond the end user's serving wire center because a competing carrier is collocated at that wire center; (4) revenue from special access circuits used to provide local exchange services. MCI WorldCom here provides its best estimates, although ILECs have chosen not to provide their own more accurate information to back up their claims concerning alleged revenue losses from provision of extended links as a UNE.

³ A decrease in the price of special access will spur overall calling, which will not only increase the volume of originating access, but also of terminating access, most of which will be handled by switched rather than special access.

End users, such as ISPs, that purchase special access could not substitute extended links. Under section 251(c)(3) of the 1996 Act and the Commission's rules, only telecommunications carriers are allowed to purchase UNEs. Thus, none of these customers has a right to purchase extended links as a UNE. Based on ILEC price cap filings, MCI WorldCom estimates that approximately 20% (\$1.3 billion) of ILEC special access revenues come from services sold directly to end users.

IXCs currently purchase high capacity transport between IXC points-of-presence ("POPs") and ILEC serving wire centers. These circuits are called entrance facilities. Since entrance facilities are used for both switched and special access, extended links could not be used to replace them. MCI WorldCom estimates that at least 15% (\$0.9 billion) of ILEC special access revenues come from entrance facilities.

Extended links are not needed in those situations where a competing carrier is collocated at the customer's serving wire center. In those cases, the IXC need only purchase an unbundled loop cross-connected to the collocated facilities. MCI WorldCom estimates that at least 30% (\$1.9 billion) of ILEC special access revenues are generated by circuits for which a competing carrier is collocated in the customer's serving wire center.

The ILECs' proposed use restriction would also not apply to extended links used to provide local exchange services as well as exchange access. Thus, the proposed use restriction would not affect the ability of carriers to use extended links to replace special access services used in whole or in part for local exchange services. MCI WorldCom estimates that at least 5% (\$0.3 billion) of the ILECs' special access revenues come from services used by CLECs to provide local services.

When these four categories of special access revenues are excluded, at most \$1.9 billion of the total \$6.3 billion in ILEC special access revenues currently are generated by circuits that IXCs could theoretically replace with unbundled extended links. The effect of a "flash-cut" on these ILEC revenues would depend upon: (1) the discount of UNE pricing off of special access tariff pricing; and (2) the revenues that the ILECs would receive from the payment of termination liabilities required by the long-term agreements that are in place.

The BOCs have suggested that the effective UNE discount from special access tariffs may be as high as 70%. However, the potential discount varies from state to state. There are many states in which a discount cannot be calculated because UNE pricing is not available either for extended links or even for DS1 loops or transport; indeed, in some states UNE pricing is higher than the special access tariffed rates. MCI WorldCom has calculated the discount for DS1 extended links compared to special access in every state for which pricing is available. That discount varies from approximately 30% to approximately 70%, with an average discount of 50%. The nationwide average discount falls to approximately 30% if all states, including those

for which pricing is either unavailable or where the discount is negative, are included in the analysis.

Termination liabilities, like the effective discount, may vary from state to state. They will definitely vary by BOC and by IXC. MCI WorldCom's termination liabilities could vary from 2% to 85% of its commitment to a given ILEC. Any estimate of a nationwide average will be highly uncertain. Nonetheless, for this exercise an assumption of 20% seems both reasonable and conservative.

The effective average nationwide discount of 30-50% combined with estimated termination liabilities of 20% yields a potential ILEC revenue loss of 10-30% from the "flash-cut" of special access to extended links. Applying those percentages to the addressable revenue base of \$1.9 billion yields a potential first-year ILEC revenue loss of approximately \$200-600 million.

2. Analysis Based on MCI WorldCom Proprietary Information⁴

⁴ MCI WorldCom submitted under the protective order established for this proceeding (DA 99-1536, rel. Aug. 5, 1999) the data used in this analysis.